



Senate Bill 294

Comprehensive Plan - Implementation and Review in Priority Funding Areas

MACo Position: **OPPOSE**

To: Education, Energy, & Environment
Committee

Date: February 14, 2023

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **OPPOSES** SB 294. The bill would upend a carefully crafted policy regarding development in county-designated priority funding areas. If enacted, this legislation could deter desirable affordable housing and future smart growth initiatives.

In 2008 the Maryland Court of Appeals handed down a decision in *Trial v. Terrapin Run* that, in the absence of legislative language stating otherwise, solidified the “in harmony with” standard regarding special exceptions. Specifically, the case centered around a development (Terrapin Run) and how it complied with Allegany County’s comprehensive plan.

During the 2009 legislative session, the General Assembly and Governor responded to the *Trial v. Terrapin Run* decision by passing a suite of related legislation, including most notably HB 297 of 2009. This legislation clearly and deliberately set parameters for projects in priority funding areas, outlining that consistency with comprehensive plans does **NOT** include “land uses, densities, or intensities.”

Further, the General Assembly included in the bill preamble,

“WHEREAS, It is the intent of the General Assembly to encourage the development of ordinances and regulations that apply to locally designated priority funding areas and allow for mixed uses and bonus densities beyond those specified in the local comprehensive plan by excluding land uses and densities or intensities in the definition of “consistency” for priority funding areas”

Revisiting this important policy choice and reintroducing land uses, densities, or intensities as considerations within priority funding areas could serve to slow development projects in designated “smart growth” corridors. In the present housing environment, especially, this could serve counter to policy goals to expand housing supply in areas already served by central infrastructure. The 2009 bill struck a sensible balance, with the support of many stakeholders.

HB 297 of 2009 has been a long-settled issue regarding development in priority funding areas. In the current housing environment, SB 294 will only serve to exacerbate an already bad situation. Accordingly, MACo urges the Committee to issue an **UNFAVORABLE** report on SB 294.